

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3994 of 1984

Date of decision: 11-09-96

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JADIBEN VIRABHAI

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

MR BV LAKHIA for Petitioner
Ms Mamta Vyas for Respondent No. 1
None present for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/09/96

ORAL JUDGEMENT

The petitioner has challenged the order of the Labour Court, Rajkot, dated 31st March, 1981 by which the application filed by her under section 33C(2) of the Industrial Disputes Act, 1947 has been dismissed. The petitioner had approached the Labour Court for

computation of the benefit of minimum wages. The Labour Court dismissed the application on the ground that the petitioner being a Government servant, Minimum Wages Act is not applicable to her and no relief can be granted.

2. Learned counsel for the petitioner has placed reliance on the decision of the Supreme Court in the case of Patel Ishwerbhai Prahaladbhai vs. Taluka Development Officers and others (Civil Appeal Nos. 127 to 130 of 1975 decided on 28th January, 1983) and contended that the decision of the Labour Court rejecting the application of the petitioner is not correct. In the case of Patel Ishwerbhai Preahaladbhai (supra) the matter was directly at issue, though there the employees were of the category of tube well operators of Taluka and District Panchayats. The Supreme Court has held that tube well operators concerned in those appeals were in the scheduled employment under the panchayats. The question was, whether, being Government servants, employed under the local authorities, they were entitled to the benefits. The tube well operators, even though state Government servants, are employed in scheduled employment under the local authorities and are consequently entitled to minimum wages and other benefits under the Act. In view of the decision of the Supreme Court, rejection of the application filed by the petitioner under section 33C(2) of the Act, 1947 on the ground of maintainability is not a correct decision. However, both the counsel for the parties made submissions on merits. But I do not consider it proper to go into the question of merits, when I am of the opinion that in view of the decision of the Supreme Court in the case of Patel Ishwerbhai Prahaladbhai (supra) the matter has to be remanded back to the Labour Court to decide the matter afresh in accordance with law.

3. In the result the petition succeeds and the same is allowed. The order of the Labour Court, Rajkot, dated 31-3-1981 passed in Recovery Application No.2008/81 is quashed and set aside and the matter is remanded back to the Labour Court to decide the matter afresh on merits in accordance with law. Rule made absolute in the aforesaid terms. No order as to costs.

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